



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-351-845

Certain Hot-Rolled Steel Flat Products from Brazil: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain hot-rolled steel flat products (hot-rolled steel) from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective: (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Peter Zukowski or Yang Jin Chun, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0189 or (202) 482-5760, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on September 9,

2015.¹ For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>.

Scope of the Investigation

The products covered by this investigation are hot-rolled steel from Brazil. For a full description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix I.

Scope Comments

Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For discussion of those comments, see the Preliminary Decision Memorandum.

Postponement of Deadline for Preliminary Determination

The Department published the notice of postponement of preliminary determination of

¹ *See Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 54261 (September 9, 2015) (*Initiation Notice*).

² *See* Memorandum from Deputy Assistant Secretary Christian Marsh to Assistant Secretary Paul Piquado entitled "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Hot-Rolled Steel Flat Products from the Brazil" (Preliminary Decision Memorandum), dated concurrently with this notice and hereby adopted by this notice.

this investigation on November 25, 2015.³ Pursuant to sections 733(c)(1)(B)(i) and (ii) of the Act, we postponed the preliminary determination by 50 days.⁴ As a result of the postponement, the revised deadline for the preliminary determination of this investigation is March 8, 2016. As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government.⁵ All deadlines in this investigation have been extended by four business days.⁶ The revised deadline for the preliminary determination of this investigation is now March 14, 2016.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export prices have been calculated in accordance with section 772(a) of the Act. Constructed export prices have been calculated in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

All-Others Rate

Consistent with sections 733(d)(1)(A)(ii) and 735(c)(5) of the Act, the Department also calculated an estimated all-others rate. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually

³ *See Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 73702 (November 25, 2015).

⁴ *Id.*

⁵ *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement and Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm ‘Jonas’” dated January 27, 2016.

⁶ *Id.*

investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act. For purposes of this preliminary determination, we are assigning as the “all-others” rate the rate of 33.91 percent, which is based on the estimated dumping margin calculated for Companhia Siderúrgica Nacional (CSN), the only mandatory respondent for which we calculated a dumping margin.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/Producer	Weighted-Average Margin
Companhia Siderúrgica Nacional (CSN)	33.91 percent
Usinas Siderurgicas de Minas Gerais S.A.(Usiminas)	34.28 percent
All-Others	33.91 percent

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of hot-rolled steel from Brazil as described in the Scope of the Investigation in Appendix I entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*, except for CSN and Usiminas, as described below. Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was

published. On December 9, 2015, we preliminarily found that critical circumstances exist for imports exported by CSN and Usiminas.⁷ For CSN and Usiminas, in accordance with section 733(e)(2)(A) of the Act, suspension of liquidation of hot-rolled steel from Brazil, as described in the “Scope of the Investigation” in Appendix I, shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice, the date suspension of liquidation is first ordered. Because we find critical circumstances do not exist for “all others,” we will begin suspension of liquidation for such firms on the date of publication of this notice in the *Federal Register*.

Pursuant to section 733 (d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds U.S. price, adjusted where appropriate for export subsidies, as follows: (1) the rates for CSN and Usiminas, when adjusted for export subsidies, are 29.78 and 30.46 percent, respectively; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise, less export subsidies; (3) the rate for all other producers or exporters when adjusted for export subsidies is 29.93 percent.⁸ These suspensions of liquidation instructions will remain in effect until further notice.

⁷ See *Antidumping Duty Investigations of Certain Hot-Rolled Steel Flat Products From Australia, Brazil, Japan, and the Netherlands and Countervailing Duty Investigation of Certain Hot-Rolled Steel Flat Products From Brazil: Preliminary Determinations of Critical Circumstances*, 80 FR 76444 (December 9, 2015).

⁸ Consistent with the Department’s normal practice, because we calculated the “All Others Rate” in this investigation based on the calculated weighted-average dumping margin for CSN, the “All Others Rate” includes export subsidies at a rate equal to the average of the CVD export subsidy rates applicable to the mandatory respondents. See *Utility Scale Wind Towers From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 77 FR 46034, 46043 (August 2, 2012); see also, “Antidumping Duty Investigation of Certain Hot-Rolled Steel Flat Products from Brazil: Calculation of All-Others Rate” (All-Others Rate Memorandum), dated concurrently with this notice.

Disclosure

We intend to disclose the calculations performed to interested parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.¹⁰ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the

⁹ See 19 CFR 351.309.

¹⁰ See 19 CFR 351.310(c).

hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. Respondents' requests for postponement of a final antidumping determination must be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.¹¹

On February 22, and February 25, 2016, respectively, pursuant to 19 CFR 351.210(e), CSN and Usiminas requested that the Department postpone the final determination and extend provisional measures to a period not to exceed six months.¹²

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make

¹¹ See 19 CFR 351.210(e)(2)

¹² See Letter to the Secretary of Commerce from CSN, "Request for Postponement of Final Determinations," (February 22, 2016). See also letter to the Secretary of Commerce from Usiminas, "Cold-Rolled and Hot-Rolled Steel Flat Products from Brazil; Request for Postponement of Final Determinations," (February 25, 2016).

our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.¹³

International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

March 14, 2016
Date

¹³ See 19 CFR 351.210(e).

Appendix I

Scope of the Investigation

The products covered by this investigation are certain hot-rolled, flat-rolled steel products, with or without patterns in relief, and whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of thickness, and regardless of form of coil (e.g., in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (e.g., in straight lengths) of a thickness of less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, i.e., products which have been “worked after rolling” (e.g., products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the resulting measurement makes the product covered by the existing antidumping¹⁴ or countervailing duty¹⁵ orders on Certain Cut-To-Length Carbon-Quality Steel Plate Products From the Republic of Korea (A-580-836; C-580-837), and

(2) where the width and thickness vary for a specific product (e.g., the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or

¹⁴ Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea, 65 FR 6585 (February 10, 2000).

¹⁵ Notice of Amended Final Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate From India and the Republic of Korea; and Notice of Countervailing Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate From France, India, Indonesia, Italy, and the Republic of Korea, 65 FR 6587 (February 10, 2000).

- 2.00 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium, or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, the substrate for motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes hot-rolled steel that has been further processed in a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the hot-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Universal mill plates (*i.e.*, hot-rolled, flat-rolled products not in coils that have been rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, of a thickness not less than 4.0 mm, and without patterns in relief);
- Products that have been cold-rolled (cold-reduced) after hot-rolling;¹⁶
- Ball bearing steels;¹⁷

¹⁶ For purposes of this scope exclusion, rolling operations such as a skin pass, levelling, temper rolling or other minor rolling operations after the hot-rolling process for purposes of surface finish, flatness, shape control, or gauge control do not constitute cold-rolling sufficient to meet this exclusion.

¹⁷ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor

- Tool steels;¹⁸ and
- Silico-manganese steels;¹⁹

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7208.90.0000, 7210.70.3000, 7211.14.0030, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.11.0000, 7225.19.0000, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7225.99.0090, 7226.11.1000, 7226.11.9030, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.5000, 7226.91.7000, and 7226.91.8000. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.5000, 7226.99.0180, and 7228.60.6000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

¹⁸ Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

¹⁹ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum:

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Preliminary Determination of Critical Circumstances
- V. Scope of the Investigation
- VI. Scope Comments
- VII. All-Others Rate
- VIII. Discussion of Methodology
 - A. Determination of the Comparison Method
 - B. Results of the Differential Pricing Analysis
 - C. Application of Facts Available and Adverse Inferences
 - 1. Application of Facts Available With an Adverse Inference
 - 2. Selection of Information Used as Facts Available
 - 3. Selection and Corroboration of the AFA Rate
- IX. Date of Sale
- X. Product Comparisons
- XI. Constructed Export Price
- XII. Normal Value
 - A. Comparison Market Viability
 - B. Affiliated Party Transactions and Arm's-Length Test
 - C. Level of Trade
 - D. Cost of Production Analysis
 - 1. Calculation of COP
 - 2. Test of Comparison Market Sales Prices
 - 3. Results of the COP Test
 - E. Calculation of NV Based on Comparison-Market Prices
- XIII. Currency Conversion
- XIV. Adjustments to Cash Deposit Rates For Export Subsidies in the Companion Countervailing Duty Investigation
- XV. Conclusion

[FR Doc. 2016-06449 Filed: 3/21/2016 8:45 am; Publication Date: 3/22/2016]